

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Norfolk Division

UNITED STATES OF AMERICA

v.

DAVID ALCORN and
AGHEE WILLIAM SMITH II,

Defendants.

Criminal No. 2:19-cr-47

GOVERNMENT’S MOTION FOR RULINGS ON OBJECTIONS
MADE DURING PRETRIAL DEPOSITIONS

The United States of America, through its attorneys, Jessica D. Aber, United States Attorney, and Melissa E. O’Boyle, Elizabeth M. Yusi, and Andrew C. Bosse, Assistant United States Attorneys, hereby respectfully moves the Court to rule on objections made during the pretrial depositions taken pursuant to Federal Rule of Criminal Procedure 15(a)(1).

As this Court is aware, the government, under Rule 15, moved for an order allowing it to take the pretrial depositions of six witnesses who are unavailable for trial. ECF No. 217. The Court entered an order allowing these depositions. ECF No. 218. Pursuant to that order, on November 5, 2021, the parties conducted videotaped depositions of S.B., V.H., K.S., and P.Y. in Sacramento, CA. On November 8, 2021, the parties conducted a videotaped deposition of R.C. in Pocatello, ID. The parties made objections to questions or answers on the record during the depositions.

The parties have reviewed the deposition testimony and designated portions that they wish to present to the jury. However, the government and defendant Smith maintain certain

objections to several of the designated portions of the Sacramento depositions.¹ As such, the government requests that the Court review the objections and rule as appropriate.

For ease of reference, the government attaches the transcripts of the depositions at issue to this motion and will provide the corresponding videos on disk to chambers. *See* Exhibit A, Deposition of V.H.; Exhibit B, Deposition of K.S.; Exhibit C, Deposition of S.B., Exhibit D, Deposition of P.Y. The following pages contain the relevant objections:

| Deposition | Objections Maintained by Parties (page numbers) |
|-------------------------------|--|
| Exhibit A: Deposition of V.H. | By Def. Smith: 18, 24, 26, 45 |
| Exhibit B: Deposition of K.S. | By Def. Smith: 17-18, 32, 37, 38, 39, 67 By Government: 54-55, 57-60, 61, 62, 63 |
| Exhibit C: Deposition of S.B. | By Def. Smith: 19, 27, 29, 31, 32, 33, 34, 35, 36, 37, 39, 42, 43, 44 By Government: 60, 61, 62 |
| Exhibit D: Deposition of P.Y. | By Def. Smith: 25 |

Within the transcripts, the designated portions are highlighted in yellow. The objections maintained by the government or defendant Smith are highlighted in green. Those objections not highlighted have been withdrawn by the party. Further, the government submits that a brief hearing may be necessary for the parties to further explain their objections to the Court.

¹ There are no unresolved objections in the deposition of R.C.

Conclusion

For the reasons outlined above, the United States respectfully asks the Court to rule on the remaining objections in the pretrial depositions of V.H., K.S., S.B., and P.Y.

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CERTIFICATE OF SERVICE

I hereby certify that on the 31st of January, 2022, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification to registered counsel.

/s/
Elizabeth M. Yusi
Assistant United States Attorney